

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



## Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

### Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>.
- Records not open to public inspection by statute are not contained on this website.

**By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.**

**Correcting information on the DRL website:** An individual who believes that information on the website is inaccurate may contact the webmaster at [web@drl.state.wi.gov](mailto:web@drl.state.wi.gov)

STATE OF WISCONSIN  
BEFORE THE PHARMACY EXAMINING BOARD

---

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION
LEONHARDT F. KOEPEL, R.P.H.,	:	AND ORDER
RESPONDENT	:	

---

The State of Wisconsin, Pharmacy Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Hearing Examiner, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Hearing Examiner, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Pharmacy Examining Board. Let a copy of this order be served on the respondent by certified mail.

Dated this 24<sup>th</sup> day of March, 1982.

David L. Byrke

pc017-552

STATE OF WISCONSIN  
BEFORE THE PHARMACY EXAMINING BOARD

-----  
IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

LEONHARDT F. KOEPESELL, R.PH.,  
RESPONDENT

PROPOSED DECISION

-----  
The parties of this proceeding, for the purposes of Wis. Stats. sec.  
227.16 are:

Leonhardt F. Koepsell  
515½ Claremont, Box 524  
Antigo, Wisconsin 54409

Pharmacy Examining Board  
1400 East Washington Avenue, Room 176  
P. O. Box 8936  
Madison, Wisconsin 53708

A complaint was filed in the above-captioned matter on September 28,  
1981. The Respondent, Leonhardt F. Koepsell, by his attorney, filed an  
answer on October 16, 1981.

A hearing was held on November 19, 1981 at 1400 East Washington Avenue,  
Madison, Wisconsin. Mr. Koepsell appeared personally and by his attorney,  
Thomas E. Dolan, 4141 West Bradley Road, Milwaukee, Wisconsin 53209. The  
Complainant appeared by attorney Michael J. Berndt, Department of Regulation  
and Licensing, Division of Enforcement, P. O. Box 8936, Madison, Wisconsin 53708.

By agreement of all parties, this proceeding was consolidated with two  
other disciplinary proceedings for the purposes of hearing. These other  
proceedings are captioned In the Matter of Disciplinary Proceedings Against  
Edwin F. Dorzeski, R.Ph. and In the Matter of Disciplinary Proceedings  
Against George W. Zipperer. The gravamina of all three complaints filed in  
these proceedings are the same.

Based upon the evidence in the record, the hearing examiner recommends  
that the Pharmacy Examining Board adopt as its final decision the following  
Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Leonhardt F. Koepsell, R.Ph. (Koepsell), residing at 515½ Claremont,  
Box 524, Antigo, Wisconsin, was at all times relevant to this proceeding  
licensed under the provisions of Wis. Stats. chapter 450 to practice as a  
pharmacist in the State of Wisconsin (license #4573).

2. At all times relevant to this proceeding Koepsell worked as a  
pharmacist at the Olk Drugstore, 800 Fifth Avenue, Antigo, Wisconsin.

### ORDER

NOW, THEREFORE, IT IS ORDERED, that the license of Leonhardt F. Koepsell to practice pharmacy in the State of Wisconsin shall be, and hereby is, suspended for a period of two (2) weeks, effective thirty-five (35) days after the date of the final decision and order rendered by the Pharmacy Examining Board in this cause.

### OPINION

Pursuant to an oral stipulation between the parties at hearing, Respondent admitted paragraphs 1, 2, 3, 4, 5, 6, 7, 8 and 9 of the complaint. It was further stipulated that Mr. Koepsell would plead no contest to paragraph 13 of the complaint and that he would admit that the Pharmacy Board has jurisdiction to take disciplinary action for the admitted violations. Finally, the parties stipulated that Mr. Koepsell would continue his denial of paragraphs 10, 11, 12 and 14 of the complaint and that attorney for the complainant would offer no evidence in support of those allegations. The effect of the stipulation is that paragraphs 1, 2, 5, 7, 8, 9 and 10 of the Findings of Fact are admitted and a violation of the statutory and code sections set forth in paragraph 2 of the Conclusions of Law is therefore clear. Accordingly, the primary issue in this proceeding is what discipline, if any, should be imposed.

It is well established that the purposes for imposition of discipline include rehabilitation of the licensee, protection of the public, and deterring other licensees from engaging in similar misconduct. State v. Aldrich, 71 Wis. 2d 206 (1976). Punishment of the licensee is not an appropriate consideration. State v. McIntyre, 41 Wis. 2d 481 (1969).

Testifying at hearing were the Respondent, Mr. Koepsell, and the Respondents in the two companion cases, Edwin Dorzeski, R.Ph., and George W. Zipperer, R.Ph. All of their testimony was consistent and may be briefly summarized as follows:

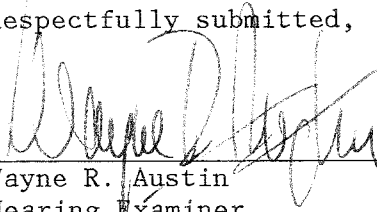
Mrs. Rita Meeks is an elderly woman of apparently limited means who suffers from leukemia. She had been well known by all three respondents for a number of years and they were all familiar with the circumstances of her life, including the nature of her illness and the fact she had recently lost both her husband and her son. Over a period of years, Mrs. Meeks had presented for filling prescriptions for Darvocet-N 100 prescribed by Dr. Garritty for relief of pain connected with her illness. During the period relevant to this proceeding, Mrs. Meeks repeatedly requested that the prescription in question here be refilled. When urged to visit her physician for the purpose of renewing the prescription, Mrs. Meeks would respond that she needed the medication for pain but that she could not afford the cost of repeated visits to her physician's office. Because he felt sorry for her, and recognizing that her consumption of the medication was within normal prescriptive limits (as to dosage), Koepsell responded affirmatively to Mrs. Meeks requests.

Mr. Koepsell's testimony was credible and it can therefore be concluded that his actions were motivated by compassion rather than by either avarice or indifference to the law. It is not sufficient, however, to decide that Mr. Koepsell was well intentioned though misguided and let the matter rest. In light of the disciplinary objectives outlined above, his good intentions are not enough. Even if it is assumed (as it probably may) that discipline is not necessary to insure Mr. Koepsell's rehabilitation, discipline is nonetheless necessary to protect the public by deterring others from similarly disregarding the important restrictions placed upon the prescribing and dispensing of controlled substances. Further, something more than a reprimand is appropriate to adequately express to the profession and to the public the Board's displeasure with the failure of a pharmacist to scrupulously adhere to the laws pertaining to prescriptions for controlled substances. It is deemed that the recommended two-week suspension will adequately serve that objective.

Finally, while this and the companion cases (Dorzeski and Zipperer) are handled individually in that separate proposed decisions have been filed, the Board will note that the effective dates of the three recommended orders are staggered so as to run consecutively rather than concurrently. Testimonial evidence at hearing indicates that concurrent suspension of all three pharmacists involved in this and the companion cases would result in the necessity to close at least one of the two pharmacies at which these three pharmacists are employed. The ramification such a closing might have on Mr. Koepsell's personal finances is unclear and of very little importance in comparison to the public welfare considerations already discussed. This staggering of effective dates is thus not recommended as a way to lessen respondent's financial burden. Rather, it is suggested that to impose the recommended discipline in a manner so as to result in the necessity to close one or both affected pharmacies could very well result in an injury to the public safety and welfare by requiring that patients have their prescriptions filled at a less conveniently located pharmacy and/or at greater expense. Conversely, imposition of the recommended periods of suspension on a consecutive rather than concurrent basis would probably not lessen the gravity of the imposed discipline as perceived by the public or by other licensees. If so, then concurrent imposition of discipline would accomplish little but to punish Mr. Koepsell and the other two respondents.

Dated at Madison, Wisconsin this 10<sup>th</sup> day of February, 1982.

Respectfully submitted,

  
\_\_\_\_\_  
Wayne R. Austin  
Hearing Examiner